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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.197 OF 2007
IN
NOTICE OF MOTION NO.1145 OF 2006
IN
BCCC L.C.SUIT NO.1307 OF 2006

M/s.Manav Builders Pvt.Ltd. ... Appellants
versus
Municipal Corpn. of Gr.Mumbai and others ... Respondents

Mr.P.N.Joshi with Mr.Yadunath Chaudhari for appellants.

Mrs.Geeta Jogalekar for respondent no.1.

Mr.K.K.Tated, AGP for respondent no.2.

CORAM : A.S.OKA, J.

DATE : 15th March 2007

PC :

1. Heard learned counsel appearing for the appellants. The appellants are the original plaintiffs. The order impugned in this Appeal from Order is passed on a Notice of Motion taken out by the appellants. The grievance of the appellants in this appeal is confined to rejection of prayer clause (c) of the Notice of Motion.

2. Prayer clause (c) of the Notice of Motion reads thus :-

> "(c) that pending the hearing and final disposal of the Suit, the Defendant No.3 be directed to issue N.O.C. for grant of Occupation Certificate in respect of the buildings to be constructed and constructed as per the existing sanctioned plan and as per the area certified by the Defendants nos.2 and 3 in respect of the Suit property;"

3. On plain reading of the aforesaid prayer it is obvious that the same was completely misconceived. The appellants were seeking a direction to issue No Objection Certificate for grant of Occupation Certificate in respect of building which is yet to be constructed. Therefore, I find no fault with the impugned order rejecting prayer clause (c).

4. However, notwithstanding the rejection of prayer clause (c), it is always open for the appellants to apply for No Objection Certificate and for Occupation Certificate at appropriate stage in accordance with law. If such applications are made, the authorities concerned are bound to consider the same on its own merits.

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5. Subject to what is stated above, the appeal is dismissed. No order as to costs.

6. Civil Application No.291 of 2007 does not survive and stands dismissed as such.

(A.S.OKA, J.)